

**Introduced by Committee on Health (Senators Alquist (Chair),  
Aanestad, Cedillo, Cox, Leno, Negrete McLeod, Pavley, Romero,  
and Strickland)**

February 19, 2010

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An act to amend Sections 1797.98b, 129040, and 129050 of the Health and Safety Code, and to amend Sections 12695.18 and 12705 of the Insurance Code, relating to health, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1368, as introduced, Committee on Health. Health care.

(1) Existing law, the Emergency Medical Services System and Prehospital Emergency Medical Care Personnel Act establishes the Emergency Medical Services Authority within the California Health and Human Services Agency to provide statewide coordination of local county emergency medical services programs.

Existing law authorizes each county to establish an emergency medical services fund, and makes money in the fund available for the reimbursement of physicians, surgeons, and hospitals for losses incurred in the provision of emergency medical services when payment is not otherwise made for those services. Existing law requires each county establishing an emergency medical services fund to report the implementation and status of the fund to the Legislature on April 15 of each year.

This bill would, instead, require the report to be sent to the Emergency Medical Services Authority, and would require the authority to compile and forward a summary of each county's report to the appropriate policy and fiscal committees of the Legislature.

(2) Existing law establishes the Office of Statewide Health Planning and Development and sets forth its powers and duties, including, but not limited to, administration of the California Health Facility Construction Loan Insurance Law for the purposes of insuring health facility construction loans. Existing law establishes the Health Facility Construction Loan Insurance Fund and continuously appropriates the fund to the office for these purposes. Existing law authorizes the office to charge a premium charge for the insurance of these loans, with the premiums to be deposited in the fund.

This bill would authorize the office to annually charge a portion of the premium in advance not to exceed \$6 per year for each \$1,000 of principal of the proposed loan. The bill would make the total dollar amount of the premium advanced nonrefundable and would require that it be credited against the amount of the premium charged or, if the commitment expires and the loan is not insured, the bill would require that the advance be retained by the office to offset costs and expenses of the office, as prescribed. By increasing the amounts to be deposited into a continuously appropriated fund, this bill would make an appropriation.

Existing law sets forth the conditions for loans to be eligible for loan insurance under these provisions, including, but not limited to, the requirement that the proceeds of the loan be guaranteed to be used exclusively for the construction, improvement, or expansion of the health facility, as approved by the office.

Existing law also authorizes insurance of loans to refinance another prior loan if the prior loan would have been eligible at the time it was made.

This bill would, instead, permit the refinancing of up to 90% of a prior loan if the loan would otherwise be eligible, without regard to whether the prior loan would have been eligible at the time it was made. By expanding the purposes for which a continuously appropriated fund may be expended, this bill would make an appropriation.

(3) Existing law creates the Access for Infants and Mothers Program, which is administered by the Managed Risk Medical Insurance Board, to provide coverage for perinatal and infant care to residents of this state meeting certain income and other eligibility requirements and paying certain subscriber contributions.

Existing law creates the California Major Risk Medical Insurance Program, which is also administered by the board, to provide major risk health coverage to residents of this state who are unable to secure

adequate private health coverage because of preexisting medical conditions and who meet other eligibility requirements and pay certain subscriber contributions.

This bill would delete obsolete references within these provisions.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1797.98b of the Health and Safety Code is amended to read:

1797.98b. (a) Each county establishing a fund, on January 1, 1989, and on each April 15 thereafter, shall report to the ~~Legislature~~ authority on the implementation and status of the Emergency Medical Services Fund. *The authority shall compile and forward a summary of each county's report to the appropriate policy and fiscal committees of the Legislature. Each county report, and the summary compiled by the authority,* shall cover the preceding fiscal year, and shall include, but not be limited to, all of the following:

(1) The total amount of fines and forfeitures collected, the total amount of penalty assessments collected, and the total amount of penalty assessments deposited into the Emergency Medical Services Fund.

(2) The fund balance and the amount of moneys disbursed under the program to physicians and surgeons, for hospitals, and for other emergency medical services purposes.

(3) The number of claims paid to physicians and surgeons, and the percentage of claims paid, based on the uniform fee schedule, as adopted by the county.

(4) The amount of moneys available to be disbursed to physicians and surgeons, descriptions of the physician and surgeon and hospital claims payment methodologies, the dollar amount of the total allowable claims submitted, and the percentage at which those claims were reimbursed.

(5) A statement of the policies, procedures, and regulatory action taken to implement and run the program under this chapter.

(6) The name of the physician and surgeon and hospital administrator organization, or names of specific physicians and

1 surgeons and hospital administrators, contracted to review claims  
2 payment methodologies.

3 (b) (1) Each county, upon request, shall make available to any  
4 member of the public the report ~~required~~ *provided to the authority*  
5 under subdivision (a).

6 (2) Each county, upon request, shall make available to any  
7 member of the public a listing of physicians and surgeons and  
8 hospitals that have received reimbursement from the Emergency  
9 Medical Services Fund and the amount of the reimbursement they  
10 have received. This listing shall be compiled on a semiannual basis.

11 SEC. 2. Section 129040 of the Health and Safety Code is  
12 amended to read:

13 129040. (a) The office shall establish a premium charge for  
14 the insurance of loans under this chapter, and this charge shall be  
15 deposited in the fund. A one-time nonrefundable premium charge  
16 shall be paid at the time the loan is insured. The premium rate may  
17 vary based upon the assessed level of relative financial risk  
18 determined pursuant to Section 129051, but shall in no event be  
19 greater than 3 percent. The amount of premium shall be computed  
20 on the basis of the application of the rate to the total amount of  
21 principal and interest payable over the term of the loan.  
22 ~~Amendments made to this section by this bill shall take effect on~~  
23 ~~January 1, 2001.~~

24 (b) *The office may annually charge a portion of the premium*  
25 *in advance commencing at the time of issuing or extending the*  
26 *commitment until the date the loan is insured or the commitment*  
27 *expires. The amount of the advance premium shall not exceed six*  
28 *dollars (\$6) per year for each one thousand dollars (\$1,000) of*  
29 *principal of the proposed loan. The total dollar amount of the*  
30 *premium advanced shall be nonrefundable and shall be credited*  
31 *against the amount of the premium charged pursuant to this*  
32 *section, or if the commitment expires and the loan is not insured,*  
33 *the advance shall be retained by the office to offset costs and*  
34 *expenses of the office related to preliminary work, underwriting*  
35 *the loan commitment, and monitoring construction.*

36 SEC. 3. Section 129050 of the Health and Safety Code is  
37 amended to read:

38 129050. A loan shall be eligible for insurance under this chapter  
39 if all of the following conditions are met:

1 (a) The loan shall be secured by a first mortgage, first deed of  
2 trust, or other first priority lien on a fee interest of the borrower  
3 or by a leasehold interest of the borrower having a term of at least  
4 20 years, including options to renew for that duration, longer than  
5 the term of the insured loan. The security for the loan shall be  
6 subject only to those conditions, covenants and restrictions,  
7 easements, taxes, and assessments of record approved by the office,  
8 and other liens securing debt insured under this chapter. The office  
9 may require additional agreements in security of the loan.

10 (b) The borrower obtains an American Land Title Association  
11 title insurance policy with the office designated as beneficiary,  
12 with liability equal to the amount of the loan insured under this  
13 chapter, and with additional endorsements that the office may  
14 reasonably require.

15 (c) The proceeds of the loan shall be used exclusively for the  
16 construction, improvement, or expansion of the health facility, as  
17 approved by the office under Section 129020. However, loans  
18 insured pursuant to this chapter may include loans to refinance  
19 another prior loan, whether or not state insured and without regard  
20 to the date of the prior loan, if the office determines that ~~the prior~~  
21 ~~loan would have been~~ *amount refinanced does not exceed 90*  
22 *percent of the original total construction costs and is otherwise*  
23 *eligible for insurance under this chapter at the time it was made.*  
24 The office may not insure a loan for a health facility that the office  
25 determines is not needed pursuant to subdivision (k).

26 (d) The loan shall have a maturity date not exceeding 30 years  
27 from the date of the beginning of amortization of the loan, except  
28 as authorized by subdivision (e), or 75 percent of the office's  
29 estimate of the economic life of the health facility, whichever is  
30 the lesser.

31 (e) The loan shall contain complete amortization provisions  
32 requiring periodic payments by the borrower not in excess of its  
33 reasonable ability to pay as determined by the office. The office  
34 shall permit a reasonable period of time during which the first  
35 payment to amortization may be waived on agreement by the lender  
36 and borrower. The office may, however, waive the amortization  
37 requirements of this subdivision and of subdivision (g) of this  
38 section when a term loan would be in the borrower's best interest.

39 (f) The loan shall bear interest on the amount of the principal  
40 obligation outstanding at any time at a rate, as negotiated by the

1 borrower and lender, as the office finds necessary to meet the loan  
2 money market. As used in this chapter, “interest” does not include  
3 premium charges for insurance and service charges if any. Where  
4 a loan is evidenced by a bond issue of a political subdivision, the  
5 interest thereon may be at any rate the bonds may legally bear.

6 (g) The loan shall provide for the application of the borrower’s  
7 periodic payments to amortization of the principal of the loan.

8 (h) The loan shall contain those terms and provisions with  
9 respect to insurance, repairs, alterations, payment of taxes and  
10 assessments, foreclosure proceedings, anticipation of maturity,  
11 additional and secondary liens, and other matters the office may  
12 in its discretion prescribe.

13 (i) The loan shall have a principal obligation not in excess of  
14 an amount equal to 90 percent of the total construction cost.

15 (j) The borrower shall offer reasonable assurance that the  
16 services of the health facility will be made available to all persons  
17 residing or employed in the area served by the facility.

18 (k) The office has determined that the facility is needed by the  
19 community to provide the specified services. In making this  
20 determination, the office shall do all of the following:

21 (1) Require the applicant to describe the community needs the  
22 facility will meet and provide data and information to substantiate  
23 the stated needs.

24 (2) Require the applicant, if appropriate, to demonstrate  
25 participation in the community needs assessment required by  
26 Section 127350.

27 (3) Survey appropriate local officials and organizations to  
28 measure perceived needs and verify the applicant’s needs  
29 assessment.

30 (4) Use any additional available data relating to existing facilities  
31 in the community and their capacity.

32 (5) Contact other state and federal departments that provide  
33 funding for the programs proposed by the applicant to obtain those  
34 departments’ perspectives regarding the need for the facility.  
35 Additionally, the office shall evaluate the potential effect of  
36 proposed health care reimbursement changes on the facility’s  
37 financial feasibility.

38 (6) Consider the facility’s consistency with the Cal-Mortgage  
39 state plan.

1 (l) In the case of acquisitions, a project loan shall be guaranteed  
2 only for transactions not in excess of the fair market value of the  
3 acquisition.

4 Fair market value shall be determined, for purposes of this  
5 subdivision, pursuant to the following procedure, that shall be  
6 utilized during the office's review of a loan guarantee application:

7 (1) Completion of a property appraisal by an appraisal firm  
8 qualified to make appraisals, as determined by the office, before  
9 closing a loan on the project.

10 (2) Evaluation of the appraisal in conjunction with the book  
11 value of the acquisition by the office. When acquisitions involve  
12 additional construction, the office shall evaluate the proposed  
13 construction to determine that the costs are reasonable for the type  
14 of construction proposed. In those cases where this procedure  
15 reveals that the cost of acquisition exceeds the current value of a  
16 facility, including improvements, then the acquisition cost shall  
17 be deemed in excess of fair market value.

18 (m) Notwithstanding subdivision (i), any loan in the amount of  
19 ten million dollars (\$10,000,000) or less may be insured up to 95  
20 percent of the total construction cost.

21 In determining financial feasibility of projects of counties  
22 pursuant to this section, the office shall take into consideration  
23 any assistance for the project to be provided under Section 14085.5  
24 of the Welfare and Institutions Code or from other sources. It is  
25 the intent of the Legislature that the office endeavor to assist  
26 counties in whatever ways are possible to arrange loans that will  
27 meet the requirements for insurance prescribed by this section.

28 (n) The project's level of financial risk meets the criteria in  
29 Section 129051.

30 SEC. 4. Section 12695.18 of the Insurance Code is amended  
31 to read:

32 12695.18. "Participating health plan" means any of the  
33 following plans—~~which~~ *that* are lawfully engaged in providing,  
34 arranging, paying for, or reimbursing the cost of personal health  
35 care services under insurance policies or contracts, medical and  
36 hospital service arrangements, or membership contracts, in  
37 consideration of premiums or other periodic charges payable to it,  
38 and that contracts with the program to provide coverage to program  
39 subscribers:

1 (a) A private insurer holding a valid outstanding certificate of  
2 authority from the Insurance Commissioner.

3 ~~(b) A nonprofit hospital service plan qualifying under Chapter~~  
4 ~~11a (commencing with Section 11491) of Part 2 of Division 2.~~

5 ~~(e)~~

6 (b) A nonprofit membership corporation lawfully operating  
7 under the Nonprofit Corporation Law (Division 2 (commencing  
8 with Section 5000) of the Corporations Code).

9 ~~(d)~~

10 (c) A health care service plan as defined under subdivision (f)  
11 of Section 1345 of the Health and Safety Code.

12 ~~(e)~~

13 (d) A county or a city and county, in which case no license or  
14 approval from the Department of Insurance or the Department of  
15 Managed Health Care shall be required to meet the requirements  
16 of this part.

17 ~~(f)~~

18 (e) A comprehensive primary care licensed community clinic  
19 that is an organized outpatient freestanding health facility and is  
20 not part of a hospital that delivers comprehensive primary care  
21 services, in which case, no license or approval from the Department  
22 of Insurance or the Department of Managed Health Care shall be  
23 required to meet the requirements of this part.

24 SEC. 5. Section 12705 of the Insurance Code is amended to  
25 read:

26 12705. For the purposes of this part, the following terms have  
27 the following meanings:

28 (a) “Applicant” means an individual who applies for major risk  
29 medical coverage through the program.

30 (b) “Board” means the Managed Risk Medical Insurance Board.

31 (c) “Fund” means the Major Risk Medical Insurance Fund, from  
32 which the program may authorize expenditures to pay for medically  
33 necessary services which exceed subscribers’ contributions, and  
34 for administration of the program.

35 (d) “Major risk medical coverage” means the payment for  
36 medically necessary services provided by institutional and  
37 professional providers.

38 (e) “Participating health plan” means a private insurer (1)  
39 holding a valid outstanding certificate of authority from the  
40 Insurance Commissioner, ~~a nonprofit hospital service plan~~



1 ~~qualifying under Chapter 11A (commencing with Section 11491)~~  
2 ~~of Part 2 of Division 2,~~ a nonprofit membership corporation  
3 lawfully operating under the Nonprofit Corporation Law (Division  
4 2 (commencing with Section 5000) of the Corporations Code), or  
5 a health care service plan as defined under subdivision (f) of  
6 Section 1345 of the Health and Safety Code, which is lawfully  
7 engaged in providing, arranging, paying for, or reimbursing the  
8 cost of personal health care services under insurance policies or  
9 contracts, medical and hospital service agreements, or membership  
10 contracts, in consideration of premiums or other periodic charges  
11 payable to it, and (2) which contracts with the program to  
12 administer major risk medical coverage to program subscribers.

13 (f) “Plan rates” means the total monthly amount charged by a  
14 participating health plan for a category of risk.

15 (g) “Program” means the California Major Risk Medical  
16 Insurance Program.

17 (h) “Subscriber” means an individual who is eligible for and  
18 receives major risk medical coverage through the program, and  
19 includes a member of a federally recognized California Indian  
20 tribe.

21 (i) “Subscriber contribution” means the portion of participating  
22 health plan rates paid by the subscriber, or paid on behalf of the  
23 subscriber by a federally recognized California Indian tribal  
24 government. If a federally recognized California Indian tribal  
25 government makes a contribution on behalf of a member of the  
26 tribe, the tribal government shall ensure that the subscriber is made  
27 aware of all the health plan options available in the county where  
28 the member resides.